

REMARKS/ARGUMENTS

Claims 15–21 are pending in the captioned application; subject to the traversal presented below, claims 17–21 stand withdrawn from consideration.

The Examiner has required restriction under 35 U.S.C. § 121 and 372 to one of the following inventions or groups:

Group I, claim(s) 15-16, drawn to an anion-exchanger.

Group II, claim(s) 17-18, drawn to a method of testing.

Group III, claim(s) 19-21, drawn to a method of removing salt.

Specifically, the Examiner states, “The inventions listed as Groups I, II, and III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Claim 15 is either obvious or anticipated by Meiller (U.S. Patent No. 4,100,149) in view of either Biebricher (U.S. Patent No. 4,177,038) or Riethorst (U.S. Patent No. 4,883,598). Accordingly, the special technical feature linking the inventions

does not provide a contribution over the prior art, and no single inventive concept exists. Therefore, restriction is appropriate".

During a telephone conversation on July 27, 2005, Applicants' representative, Steven Ryan, elected to prosecute the claims of Group I, namely, claims 15–16.

Applicants confirm this election, with traverse. The traversal is based on the fact that Applicants dispute, as discussed below, that claim 15 is "either obvious or anticipated by Meiller (U.S. Patent No. 4,100,149) in view of either Biebricher (U.S. Patent No. 4,177,038) or Riethorst (U.S. Patent No. 4,883,598)". Applicants respectfully assert that the claims all contain a common technical feature, namely the anion exchanger. Applicants also respectfully assert that searching claims 15–21 together would not place an undue burden on the Examiner, and that the restriction is improper and should be withdrawn.

The Examiner has rejected claims 15 and 16 under 35 U.S.C. § 103(a) as "being unpatentable over Meiller (U.S. Patent No. 4,100,149) in view of either Biebricher (U.S. Patent No. 4,177,038) or Riethorst (U.S. Patent No. 4,883,598)".

Specifically, the Examiner states, "At best, the claims differ from Meiller (U.S. Patent No. 4,100,149) in reciting use of a spacer. Biebricher (U.S. Patent No.

4,177,038)...discloses that a spacer increases the distance between the matrix and the ligand to counteract steric interference. Riethorst (U.S. Patent No. 4,883,598)...discloses spacers between amino groups functioning as ligands and a carrier material yield unexpected results with a higher yield, more reproducible result, more specific adsorption, and a purer product".

The Examiner concludes, "It would have been obvious to use a spacer in Meiller (U.S. Patent No. 4,100,149) either because Biebricher (U.S. Patent No. 4,177,038) (column 1, lines 34-40) discloses that a spacer increases the distance between the matrix and the ligand to counteract steric interference or because Riethorst (U.S. Patent No. 4,883,598) (column 6, lines 9-34) discloses spacers between amino groups functioning as ligands and a carrier material yield unexpected results with a higher yield, more reproducible result, more specific adsorption, and a purer product".

In response, Applicants respectfully disagree and respectfully assert that the Examiner is mischaracterizing the Meiller, et al. reference. Specifically, Meiller, et al. teaches a number of ion exchange resins, which include tertiary amines or quaternary ammonium salts that can include an aromatic ring attached to the amine. However, these compounds differ considerably from the claimed invention inasmuch as the only aromatic ring shown in the Meiller, et al. reference, is attached to the quaternized nitrogen via a methylene (CH_2) group, while instant claim 15 clearly recites that the aromatic ring is

connected via R_1 , which can be quite different from a methylene group. Thus, not all embodiments of the instant invention are disclosed or even suggested by the Meiller, et al. reference.

Further, as the Examiner correctly states, there is no teaching of the use of a spacer (SP) in the Meiller, et al. reference. The spacer (SP) is disclosed in the captioned application as being important for the functioning of the claimed anion exchangers.

While the Biebricher, et al. and Riethorst, et al. references do disclose use of spacers, they are disclosed for quite different reasons, and not for separating proteins or anything else by ion exchange. Indeed, the utility of the spacer in the context of an anion exchanger, as claimed in instant invention, is only taught by the instant specification.

Applicants respectfully assert that the Examiner has, perhaps unconsciously, utilized Applicants' own teaching in combining the references, as the references provide no cogent reason to form the combination. In absence of such motivation, Applicants respectfully assert that the Examiner's rejection cannot be sustained and should be withdrawn.

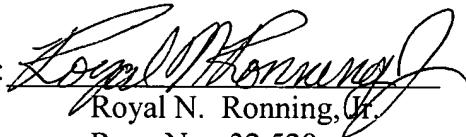
In view of the foregoing, Applicants respectfully assert the Examiner's rejections cannot be sustained and should be withdrawn.

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Applicants respectfully assert that elected claims 15 and 16 are in allowable form and earnestly solicit their allowance.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on November 1, 2005.

Signature: 

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